

## Department of the Army, DoD

## § 536.10

States under the statutes and regulations listed in § 536.2 and pursuant to other appropriate statutes, regulations, and authorizations.

(4) Act as a claims settlement authority on claims that fall within the appropriate monetary jurisdictions set forth in this part and forward claims exceeding such jurisdictions to the Commander USARCS, or to the chief of a command claims service, as appropriate, for action.

(5) Designate CPOs and request that the Commander USARCS, or the chief of a command claims service, as appropriate, grant claims approval authority to a CPO for claims that fall within the jurisdiction of that office.

(6) Supervise the operations of CPOs within their area.

(7) Implement claims policies and guidance furnished by the Commander USARCS.

(8) Ensure that there are adequate numbers of qualified and adequately trained CJAs or claims attorneys, RCJAs or attorneys, recovery claims clerks, claims examiners, claims adjudicators and claims clerks in all claims offices within their areas to act promptly on claims.

(9) Budget for and fund claims investigations and activities, such as: per diem and transportation of claims personnel, claimants and witnesses; independent medical examinations; appraisals and independent expert opinions; long distance telephone calls; recording and photographic equipment; use of express mail or couriers; and other necessary expenses.

(10) Within the United States and its territories, commonwealths and possessions, procure and disseminate, within their areas of jurisdiction, appropriate legal publications on state or territorial law and precedent relating to tort claims.

(11) Notify the Commander USARCS, of all claims and potentially compensable events (PCEs) as required by § 536.22(c); notify the chief of a command claims service of all claims and PCEs.

(12) Develop and maintain written plans for a disaster or civil disturbance. These plans may be internal SJA office plans or an annex to an installa-

tion or an agency disaster response plan.

(13) Implement the Army's Article 139 claims program. (See subpart I of this part).

(14) Notify USARCS of possible deployments and ensure adequate FCCs are appointed by USARCS and are trained.

(b) *Operations of area claims offices.* (1) The ACO is the principal office for the investigation and adjudication or settlement of claims, and shall be staffed with qualified legal personnel under the supervision of the SJA, command JA, or COE district or command legal counsel.

(2) In addition to the utilization of unit claims officers required by § 536.10(a), if indicated, the full-time responsibility for investigating and processing claims arising within or related to the activities of a unit or organization located within a section of the designated area may be delegated to another command, unit, or activity by establishing a CPO at the command, unit, or activity (see § 536.10(b)(4)). Normally, all CPOs will operate under the supervision of the ACO in whose area the CPO is located. Where a proposed CPO is not under the command of the ACO parent organization, this designation may be achieved by a support agreement or memorandum of understanding between the affected commands.

(3) Normally, claims that cannot be settled by a COE ACO will be forwarded directly to the Commander USARCS, with notice of referral to the Chief Counsel, COE. However, as part of his or her responsibility for litigating suits that involve civil works and military construction activities, the Chief Counsel, COE, may require that a COE ACO forward claims through COE channels, provided that such requirement does not preclude the Commander USARCS from taking final action within the time limitations set forth in subparts D and H of this part.

### § 536.10 Responsibilities and operations of claims processing offices.

(a) *Heads of CPOs.* Heads of CPOs will:

(1) Investigate all potential and actual claims arising within their assigned jurisdiction, on either an area, command, or agency basis. Only a CPO that has approval authority may adjudicate and pay presented claims within its monetary jurisdiction.

(2) Ensure that units and organizations within their jurisdiction have appointed claims officers for the investigation of claims not requiring a JA's investigation. (See § 536.22).

(3) Budget for and fund claims investigations and activities; including, per diem and transportation of claims personnel, claimants and witnesses; independent medical examinations; appraisals; independent expert opinions; long distance telephone calls; recording and photographic equipment; use of express mail or couriers; and other necessary expenses.

(4) Within CONUS, procure and maintain legal publications on local law relating to tort claims pertaining to their jurisdiction.

(5) Notify the Commander USARCS of all claims and claims incidents, as required by § 536.22 and AR 27–20, paragraph 2–12.

(6) Implement the Army's Article 139 claims program (see subpart I of this part).

(b) *Operations of claims processing offices—(1) Claims processing office with approval authority.* A CPO that has been granted approval authority must provide for the investigation of all potential and actual claims arising within its assigned jurisdiction, on an area, command, or agency basis, and for the adjudication and payment of all claims presented within its monetary jurisdiction. If the estimated value of a claim, after investigation, exceeds the CPO's payment authority, or if disapproval is the appropriate action, the claim file will be forwarded to the ACO unless otherwise specified in this part, or forwarded to USARCS or the command claims service, if directed by such service.

(2) *Claims processing offices without approval authority.* A CPO that has not been granted claims approval authority will provide for the investigation of all potential and actual claims arising within its assigned jurisdiction on an area, command, or agency basis. Once

the investigation has been completed, the claim file will be forwarded to the appropriate ACO for action. Alternatively, an ACO may direct the transfer of a claim investigation from a CPO without approval authority to another CPO with approval authority, located within the ACO's jurisdiction.

(3) *Medical claims processing offices.* The MCJAs or medical claims attorneys at Army medical centers, other than Walter Reed Army Medical Center, may be designated by the SJA or head of the ACO for the installation on which the center is located as CPOs with approval authority for medical malpractice claims only. Claims for amounts exceeding a medical CPO's approval authority will be investigated and forwarded to the Commander USARCS.

(4) *Special claims processing offices—(i) Designation and authority.* The Commander USARCS, the chief of a command claims service, or the head of an ACO may designate special CPOs within his or her command for specific, short-term purposes (for example, maneuvers, civil disturbances and emergencies). These special CPOs may be delegated the approval authority necessary to effect the purpose of their creation, but in no case will this delegation exceed the maximum monetary approval authority set forth in other subparts of this part for regular CPOs. All claims will be processed under the claims expenditure allowance and claims command and office code of the authority that established the office or under a code assigned by USARCS. The existence of any special CPO must be reported to the Commander USARCS, and the chief of a command claims service, as appropriate.

(ii) *Maneuver damage and claims office jurisdiction.* A special CPO is the proper organization to process and approve maneuver damage claims, except when a foreign government is responsible for adjudication pursuant to an international agreement (see subpart G of this part). Personnel from the maneuvering command should be used to investigate claims and, at the ACO's discretion, may be assigned to the special CPO. The ACO will process claims filed after the maneuver terminates. The special CPO will investigate claims

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arising while units are traveling to or from the maneuver within the jurisdiction of other ACOs, and forward such claims for action to the ACO in whose area the claims arose. Claims for damage to real or personal property arising on private land that the Army has used under a permit may be paid from funds specifically budgeted by the maneuver for such purposes in accordance with AR 405-15.

(iii) *Disaster claims and civil disturbance.* A special CPO provided for a disaster or civil disturbance should include a claims approving authority with adequate investigatory, administrative, and logistical support, including damage assessment and finance and accounting support. It will not be dispatched prior to notification of the Commander USARCS, whose concurrence must be obtained before the first claim is paid.

(5) *Supervisory requirements.* The CPOs discussed in paragraphs (b)(2) through (b)(4) of this section must be supervised by an assigned CJA or claims attorney in order to exercise delegated approval authority.

### § 536.11 Chief of Engineers.

The Chief of Engineers, through the Chief Counsel, shall:

(a) Provide general supervision of the claims activities of COE ACOs.

(b) Ensure that each COE ACO has a claims attorney designated in accordance with § 536.4.

(c) Ensure that claims personnel are adequately trained, and monitor their ongoing claims administration.

(d) Implement pertinent claims policies.

(e) Provide for sufficient funding in accordance with existing Army regulations and command directives for temporary duty (TDY), long distance telephone calls, recording equipment, cameras, and other expenses for investigating and processing claims.

(f) Procure and maintain adequate legal publications on local law relating to claims arising within the United States, its territories, commonwealths and possessions.

(g) Assist USARCS in evaluation of claims by furnishing qualified expert and technical advice from COE resources, on a non-reimbursable basis

except for temporary duty (TDY) and specialized lab services expenses.

### § 536.12 Commanding General, U.S. Army Medical Command.

(a) After consulting with the Commander USARCS on the selection of medical claims attorneys, the Commander of the U.S. Army MEDCOM, the European Medical Command, or other regional medical command, through his or her SJA/Center Judge Advocate, shall ensure that an adequate number of qualified MCJAs or medical claims attorneys and medical claims investigators are assigned to investigate and process medical malpractice claims arising at Army medical centers under the Commander's control. In accordance with an agreement between TJAG and The Surgeon General, such personnel shall be used primarily to investigate and process medical malpractice claims and affirmative claims and will be provided with the necessary funding and research materials to carry out this function.

(b) Upon request of a claims judge advocate or claims officer, shall provide a qualified health care provider at a medical treatment facility (MTF) to examine a claimant for his injuries even if the claimant is not otherwise entitled to care at an MTF (See AR 40-400, Patient Administration, paragraph 3-47).

### § 536.13 Chief, National Guard Bureau.

The Chief, National Guard Bureau (NGB), shall:

(a) Ensure the designation of a point of contact for claims matters in each State Adjutant General's office.

(b) Provide the name, address, and telephone number of these points of contact to the Commander USARCS.

(c) Designate claims officers to investigate claims generated by ARNG personnel and forward investigations to the Active Army ACO that has jurisdiction over the area in which the claims incident occurred.

### § 536.14 Commanders of major Army commands.

Commanders of MACOMs, through their SJAs, shall:

(a) Assist USARCS in monitoring ACOs and CPOs under their respective